

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.28167 of 2014

and

M.P.Nos.1 to 3 of 2014 and 1 of 2015

PTV.Bhuvaneswari

.. Petitioner

Vs.

1.The Registrar,
Anna University,
Chennai - 25.

2.The Vice Chancellor,
Anna University,
Chennai - 25.

3.The Secretary to Government,
Higher Education Department,
Secretariat, Chennai - 9.

4.Dr.M.Kannan

.. Respondents

(R4 impleaded vide order dated 18.08.2016
in M.P.No.1 of 2015 in W.P.No.28167 of
2014)

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the Notification issued by the first respondent in Advt.No.001/PR15/2014 dated 07.01.2014 insofar as the post of Professor in Electronics Engineering is concerned and quash the same and to consequently direct the respondents to amend the qualification prescribed for the post of Professor in Electronics Engineering Department by including B.E.(EEE) Degree as an eligible criteria.

For Petitioner .. M/s.Menon, Karthik Mukundan & Neelakantan

For Respondents .. Mr.K.Venkatramani,
Addl. Advocate General VII
assisted by
Mr.M.Vijayakumar,
Addl. Govt. Pleader for R1 & R2
Mr.T.M.Pappiah,
Spl. Govt. Pleader for R3
Mr.V.Sanjeevi for R4

ORDER

The petitioner has approached this Court seeking the following relief:

to issue a writ of certiorarified mandamus to call for the records relating to the Notification issued by the first respondent in Advt.No.001/PR15/2014 dated 07.01.2014 insofar as the post of Professor in Electronics Engineering is concerned and quash the same and to consequently direct the respondents to amend the qualification prescribed for the post of Professor in Electronics Engineering Department by including B.E.(EEE) Degree as an eligible criteria.

2.The case of the petitioner is that she was working as Assistant Professor (Senior Grade) in the Department of Electronics Engineering, Anna University at Madras Institute of Technology campus from 09.07.2004. The Madras Institute of Technology which is known as MIT is an Unit affiliated to Anna University. According to the petitioner, she has put in 14 years of service in the Electronics Engineering Department in Anna University. The petitioner is in possession of B.E. (Electrical and Electronics Engineering) and M.E. in Applied Electronics and Ph.D. (Networking). The petitioner belongs to Scheduled Caste (Arunthathiyar) Community.

3.The first respondent University has issued a Notification on 07.01.2014 calling for candidates from the open market for appointment to various posts including the post of Professor in Electronics Engineering Department. As per the Notification, there was only one vacancy which was reserved for Scheduled Caste (Arunthathiyar) Community. According to the petitioner, since she fulfilled the qualification for being appointed originally as an Assistant Professor in the Electronics Engineering Department and being a member of Scheduled Caste

(Arunthathiyar) Community, she had applied for consideration of her candidature for appointment.

4.The fourth respondent, who was not originally a party in the writ petition and subsequently impleaded was also working as Associate Professor in the same MIT (Anna University). The fourth respondent belongs to Scheduled Caste community and has a degree in B.E. (Electronics and Communication Engineering), M.E. (Electronics Engineering) with Ph.D. He was originally appointed as Lecturer in 1996 and thereafter came to be promoted as Lecturer (Selection Grade), which was equivalent to the post of Assistant Professor. He was further promoted to the post of Associate Professor in the month of July, 2009 and as such, he was working in the Department of Electronics Engineering, MIT. According to the fourth respondent, he was more experienced faculty than the petitioner herein. These facts have not been disputed either by the petitioner or by the official respondents.

5.The Notification dated 07.01.2014 which called for recruitment to the various posts including the post of Professor, Electronics Engineering Department had prescribed the following qualifications:

"B.E. in Electronics and Communication Engineering.

M.E./M.Tech. in Communication Systems/ Communication & Networking/Electronics Engineering/ Applied Electronics /VLSI/Microwave/Optical Communication.

Ph.D. in the area of Communication/ VLSI/ Microwave/Optical Communication/ Networking/ Signal Processing"

6.Since the petitioner was admittedly not in possession of basic degree in Electronics and Communication Engineering, she was not called for selection though she belongs to Scheduled Caste (Arunthathiyar) community. However, by virtue of interim order obtained from this Court, the petitioner was permitted to attend the interview along with three other candidates including the fourth respondent herein. In the selection, the petitioner was the only person belonging to Scheduled Caste (Arunthathiyar) community.

7.The principal challenge by the petitioner in this writ petition is that the qualification prescribed viz., B.E. (ECE) for being considered for appointment to the post of Professor in the Electronics Engineering Department is intended only to deny the benefit of appointment as Professor as far as the petitioner is concerned since by virtue of special reservation for Arunthathiyar community, the petitioner's chance of being appointed as Professor was taken away by prescribing the qualification as such in the Notification.

8.Moreover, it was the case of the petitioner that the qualification prescribed in the Notification for the subject appointment does not specify the norms prescribed by All India Council for Technical Education (for short 'AICTE') since the subject Electrical and Electronics Engineering that is allied subject, which qualification was recognised by the same University while appointing the petitioner as Assistant Professor and therefore, there was no rationale in prescribing this different qualification for appointment to the post of Professor. Such being the case, by not prescribing the qualification of B.E. (EEE) is only to deprive the petitioner of her appointment to the post of Professor since she was the only candidate available in the Arunthathiyar community to be considered for appointment.

9.Upon notice, Mr.M.Vijayakumar, learned Additional Government Pleader entered appearance on behalf of respondents 1 and 2, Mr.T.M.Pappiah, learned Special Government Pleader entered appearance on behalf of the third respondent and Mr.V.Sanjeevi, learned counsel entered appearance on behalf of the fourth respondent.

10.Mr.Karthik Rajan, learned counsel appearing for the petitioner would strongly contend that the qualification prescribed in the Notification dated 07.01.2014 has no nexus to the object the University is seeking to achieve and therefore, the said Notification is liable to be struck down as being unreasonable and irrational. He would submit that the very fact that the petitioner was found to be fit for appointment as Assistant Professor with the basic qualification as B.E. (EEE), there was no rationale for not considering the said basic qualification for appointment to the higher post in the same Department. The University has prescribed such qualification for the subject appointment only to deny the benefit of appointment to the petitioner as she was the only candidate available in the community with such qualification to participate in the selection. In the said circumstances, she would assail the Notification stating that the action of the University in not prescribing the qualification amounts to malice in law and therefore liable to be interfered with.

11.Learned counsel for the petitioner would further contend that in the earlier Notifications of the year 2009 and 2011, one of the qualifications prescribed was B.E. (EEE) and therefore, there was no necessity to change the qualification and restrict it only to the qualification of B.E. (ECE). Such action is clearly intended to achieve the collateral purpose to accommodate the fourth respondent. However, the submission made by the learned counsel for the petitioner in this regard is not borne out by any record as it could be seen that even in the earlier Notification issued on 12.02.2009, the qualification at that point of time did not include B.E. (EEE). The qualification which was prescribed in the Notification dated 12.02.2009 is as follows:

Professor .. B.E./B.Tech in ECE/Electronics,
M.E./M.Tech in VLSI/Networking/
Image Processing/Antenna/
Optical Communication/Signal
Processing/Electronics/
Communication & Networking/
Applied Electronics

Asst. Professor .. B.E./B.Tech. in ECE/Electronics/EEE
M.E./M.Tech. in VLSI/Communication
Systems/Networking/Image Processing/
Antenna/Signal Processing/Laser &
Optical Communication/Medical
Electronics/Applied Electronics/
Electronics Engg./Embedded Systems/
Communication & Networking/
Wireless Technology

12.Therefore, even subsequent Notification in 2011, the qualification of B.E. (EEE) was prescribed only for appointment to the post of Assistant Professor. In the said circumstances, the argument advanced by the learned counsel for the petitioner that in 2014 alone, the University has prescribed a different qualification by not including the qualification of B.E. (EEE) cannot be accepted and the same has to be brushed aside as devoid of merit and substance.

13.Learned counsel for the petitioner would further submit that the qualification does not satisfy AICTE norms since B.E. (ECE) is an allied qualification and recognised by the AICTE for appointment in Electronics Engineering Department. He would draw this Court's attention to the Notification issued by the AICTE dated 28.04.2017. First of all, it has to be seen that the Notification was only issued in 2017 and the selection relates to the period 2014, even assuming that there is some substance in the argument advanced by the learned counsel for the

petitioner. Even otherwise, it has to be seen that the same Notification, in addition to the norms prescribed, the Selection Committee with the approval of the respective State/central Government/Union Territory etc., may take appropriate decision on the relevant qualifying degree suitable for recruitment to teaching persons especially keeping in view of interdisciplinary nature of emerging technologies. Therefore, the said argument advanced by the learned counsel for the petitioner would also have to be brushed aside as devoid of merit and substance.

14.Mr.K.Venkatramani, learned Additional Advocate General appears for respondents 1 and 2. He would submit that the Anna University had appointed the Consultative Committee and the Committee is empowered to prescribe qualification as notified on 07.01.2014. The Committee was competent to prescribe qualification and such qualification cannot be assailed only because the petitioner was not qualified as per the Notification. The qualification prescribed by the Committee is as per the AICTE norms and the same was not in derogation of any guidelines or norms issued by the AICTE. He would therefore submit that the writ petition is deserved to be dismissed.

15.Mr.V.Sanjeevi, learned counsel appearing for the fourth respondent would submit that it is an admitted position that the fourth respondent is more experienced in the same Department than the petitioner and he belongs to Scheduled Caste community. He would submit that the petitioner having failed to qualify for appointment to the post of Professor has come forward with the prayer for inclusion of her qualification in the Notification, which is impermissible and cannot be entertained by this Court. He would also draw this Court's attention that as per the Notification under the caption General Information and Instructions, in sub para 8 of para 5, it is clearly mentioned that if no qualified and suitable candidates belonging to Scheduled Caste (Arunthathiyar) community are available, the seat reserved for SC(A) will be filled up by other SC members on merit basis. In the instant case, the petitioner was found to be not qualified even for participating in the selection and therefore, the fourth respondent, by virtue of he being a member of scheduled caste community and he being fully qualified, is entitled to be appointed to the post of Professor in the Electronics Engineering Department in pursuance of the selection vide Notification dated 07.01.2014. There is considerable force in the contention of the learned counsel for the fourth respondent that in the absence of qualified candidate from Arunthathiyar community, the post has to be offered to any qualified Scheduled Caste candidate available and in the instant case, it is not in dispute that the fourth respondent is fully qualified and experienced for being appointed to the subject post.

16.Learned counsel appearing for the petitioner in desperation attempted to draw the attention of this Court stating that the AICTE is a necessary party for clarifying the position as to whether the qualification possessed by the petitioner is sufficient enough to make her eligible for consideration to the subject appointment. He would submit that a petition was already filed in the Registry for impleading. This was strongly objected to by the learned counsel for the respondents on the ground that this is merely an afterthought on the part of the petitioner in order to drag the proceedings particularly in view of the fact although the selection was completed in 2014, the appointment to the subject post has not taken place because of the pendency of the writ petition.

17.This Court finds that the attempt by the learned counsel for the petitioner to bring in AICTE at this stage is not warranted at all and the facts as narrated in this case by both the parties speak for themselves. It is not the case of the petitioner that the fourth respondent was not qualified. She has only filed the entire writ petition on the premise that she belongs to specially reserved community viz., Scheduled Caste (Arunthathiyar) community and therefore, her qualification ought to be taken into consideration no matter what qualification is prescribed in the Notification. The said argument, to say the least, is preposterous and cannot be accepted under any circumstances. Therefore, the plea for impleading AICTE has no merit and therefore, the same is rejected.

18.In the light of the above discussion and the narrative, this Court finds that there are no merits in the writ petition and therefore, the same is dismissed. It is open to the Anna University to go ahead with the selection result and on the basis of the result, further action may be taken by the University for appointment of the selected candidate to the subject post, which is covered in the writ petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
Anna University,
Chennai - 25.

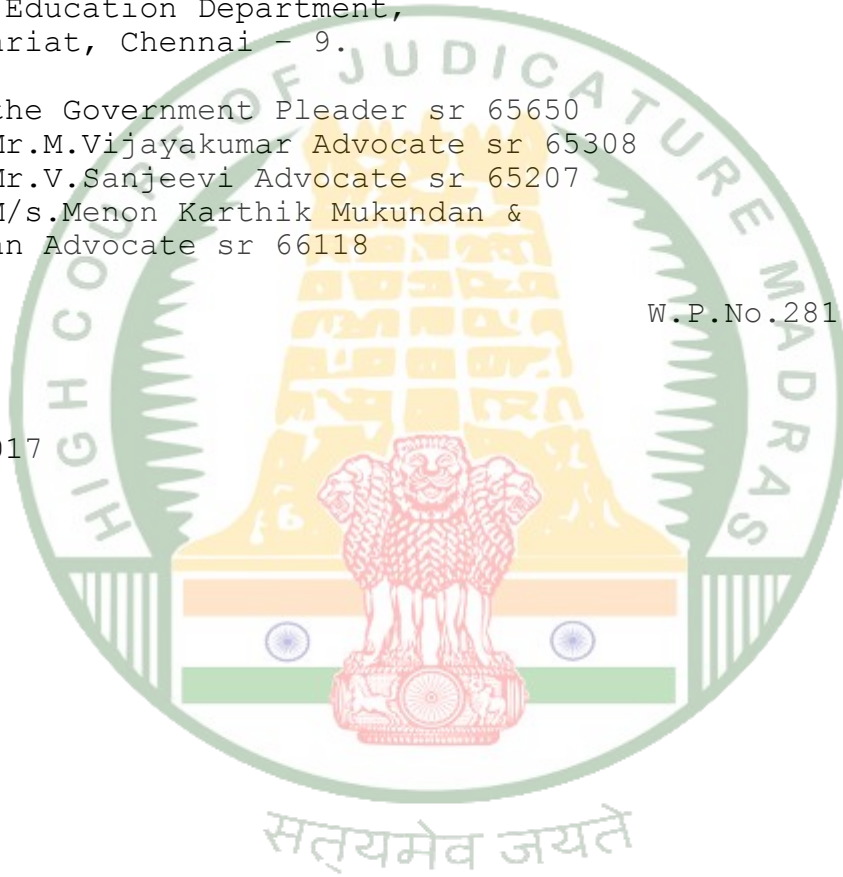
2.The Vice Chancellor,
Anna University,
Chennai - 25.

3.The Secretary to Government,
Higher Education Department,
Secretariat, Chennai - 9.

+1 cc to the Government Pleader sr 65650
+1 cc to Mr.M.Vijayakumar Advocate sr 65308
+1 cc to Mr.V.Sanjeevi Advocate sr 65207
+1 cc to M/s.Menon Karthik Mukundan &
Neelakantan Advocate sr 66118

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